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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,445	09/16/2003	Joshua Lieberman	460.2299USQ	1590

7590 06/15/2006

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EXAMINER

TRUONG, KEVIN THAO

ART UNIT PAPER NUMBER

3734

DATE MAILED: 06/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/663,445	<b>Applicant(s)</b> LIEBERMAN ET AL.	
	<b>Examiner</b> Kevin T. Truong	<b>Art Unit</b> 3734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 11 and 13-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11 and 13-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date: _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date: _____  | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

Note: This is in response to Amendment filed 03/27/2006.

#### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 11 and 13-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dieringer et al. (U.S. 6,161,710) in view of Chen et al. (U.S. 6,209,736).

Dieringer et al discloses the claimed invention as state above except for a vent disposed within bottle and a bottom cap connected to the second end of the bottle. However, Chen et al teaches in figures 1 and 3, that it is known in the art to have a vent (3) disposed within bottle (1) and a bottom cap (4) connected to the second end of the bottle (1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the Dieringer et al bottle with a vent disposed within thereof and a bottom cap connected to the second end of the bottle as taught by Chen et al so that the air dissolved in the milk will flow out accompanying the milk to result in decreasing the air pressure in the bottle in order outside air flow into the bottle for replenishment through the vent to balance the internal and the external air pressure.

***Response to Arguments***

1. Applicant's arguments filed 03/27/2006 have been fully considered but they are not persuasive. With respect to claims 11 and 24, the Examiner disagrees with Applicant's remarks and has maintained the grounds of rejection under 35 U.S.C. 103(a) as being unpatentable over Dieringer et al. (U.S. 6,161,710) in view of Chen et al. (U.S. 6,209,736) for the same reasons as set forth in the previous office action. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Applicant argues that the nipple venting mechanism of Dieringer with the bottle venting mechanism of Chen. However, the examiner recognizes that it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the Dieringer et al bottle with a vent disposed within thereof and a bottom cap connected to the second end of the bottle as taught by Chen et al so that the air dissolved in the milk will flow out accompanying the milk to result in decreasing the air pressure in the bottle in order outside air flow into the bottle for replenishment through the vent to balance the internal and the external air pressure. Due to obviousness can be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is

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some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art.

***Conclusion***

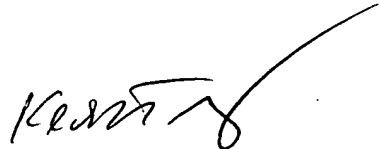
2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin T. Truong whose telephone number is 571-272-4705. The examiner can normally be reached on Monday-Thursday from 8:00 AM to 6:00 PM..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hayes can be reached on 571-272-4959. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kevin T. Truong  
Primary Examiner  
Art Unit 3734

ktt